IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

ARBITRATION PETITION NO.316 OF 2005

...

Smt.Sukhalata H. Kotian
and Anr. ...Petitioners

v/s.

Shri Sudesh H. Kotian
and ors. ...Respondents

AND

ARBITRATION PETITION NO.349 OF 2005

...

Smt.Sujata Mohan Suvarna
and anr. ...Petitioners

v/s.

Smt.Sukhalata H. Kotian
and ors. ...Respondents

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Ms.Alpana Ghone i/b Shaunak Satpute & Co. for the Petitioners in Arbitration Petition No.316 of 2005.

Mr.K.G.Munshi i/b Sonal Doshi & Co. for the Petitioners in Arbitration Petition No.349 of 2005.

Mr.C.U.Singh with Ms.Soma Singh, Sanjay Udeshi & Mr.Sudhir Londhe i/b Sanjay Udeshi & Co. for the Respondents.

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CORAM: D.K.DESHMUKH, J.

DATED: 21ST NOVEMBER,2005

P.C.:

1. By both these petitions filed under Section 34 of the Arbitration & Conciliation Act, the same award made by the learned arbitrator is challenged.

2. The first ground on which the award is challenged is that the learned arbitrator is the Chairman of the bank, which had advanced a loan to Bharat Boring Works of which the Respondents are the partners. But that fact was not disclosed by the learned arbitrator

to the Petitioner. Admitted position is that this ground is not raised in the petition that because the loan was advanced by the bank of which the arbitrator was the Chairman, the arbitrator had bias against the Petitioner.

3. The second ground on which the award is challenged is that the Respondents have given donation to the society of which the learned arbitrator is the Chairman. Even according to the Petitioner, this donation was given after the award was made and this ground is also not raised in the petition.

4. Then it is submitted that the award is liable to be set aside, because it is contrary to the public police of India, thereby the Petitioner implies that the award is in breach of substantive law in force in India. But perusal of the grounds of the Petition shows that the Petitioner has not referred to any law that is in force in India and has also not indicated as to how the award has violated that law. Only vague grounds are raised in the petition challenging the award. Considering the jurisdiction of this court under Section 34, an award made by the

arbitrator especially the arbitrator who has been appointed to resolve the dispute between the members of the family cannot be disturbed by this court lightly. I find that the findings that have been recorded by the learned arbitrator are essentially the findings of fact for which there appears to be material available on record. The learned arbitrator has distributed the assets of the family between the members of the family in order to put an end to the disputes between them.

4. In my opinion, therefore, taking overall view of the matter, it will not be appropriate for this court to interfere with the award impugned in these petitions. Both the petitions are disposed of.

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